19 8 May 22 Cy

RECEIVED
MAY 21 1980
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE SUPREME COURT OF THE UNITED STATES OF AMERICA

MARVIN E. BARNETT,)
Petitioner Pro-Se,)
)
-vs-)
)
THE STATE OF OKLAHOMA, And,)
PETER A. DOUGLAS, Warden, Et Al.,)
Respondent(s).)

Case No. 79-6376

MOTION TO SUPPLEMENT PETITION FOR WRIT OF CERTIORARI

COMES NOW, Marvin E. Barnett, the petitioner herein, to state and make known to this Honorable Court, that:

The Respondent, State of Oklahoma, C. Elaine Alexander, Assistant Attorney General, caused to be filed a "Response Brief Opposing Petition For Writ of Certiorari", wherein the State set forth, as fact, certain matter that is erroneus and, unsupported by any record(s) pertinent to the issues raised by petitioner.

In the "Statement of the Case", the State, at line 5 through 7, states that:

> "* * * and was duly represented by privately retained counsel from arraignment through the appeal time period."

A 'COMPLETE' review of the 'Trail Transcripts' will show beyond any question that petitioner WAS NOT represented by counsel at Preliminary Arraignment. And further, the State, at page #2, lines 10 through 13, states that:

> "Mr. Barnett failed to perfect his appeal from the aforesaid Judgment and Sentence to the Oklahoma Court of Criminal Appeals within the time set forth in Okla. Stat. Tit. 22, Sec. 1054 (1965) and Okla. Stat. Tit. 22, Sec. 1055 (1961)."

Again, a 'complete' review of the records in this instant case will show that Petitioner's retained counsel duly informed the Court of Petitioner's intent to Appeal, and request for Casemade was duly made. When Petitioner became aware of the fact that his attorney of record had 'abandoned' him, Petitioner then made a deligent good faith effort to thus inform the Court. However, thru ignorance of law, a total and complete abandonment by Petitioner's retained counsel of record, and the totality of the hostile environment, Petitioner's late filed application for case-made at public expense was overruled/denied by the District Court.

In support of Petitioner's contention that he was abandoned, Petitioner would again point to the Court Records, which are 'silent' regards Petitioner's retained counsel of record seeking to withdraw after notice was given to the Court of Petitioner's intention to appeal.

Petitioner was charged and convicted upon trial by jury with the crime of Murder, a capital offense, and, was subsequently sentenced to a term of 'Life' imprisonment. Petitioner was not sentenced to ten, twenty, thirty or forty years imprisonment, but, to 'LIFE'! Petitioner informed the Court that he did not know or understand anything about the law or the proceedings, but, that he definitely wanted to appeal. And, ever since petitioner was made aware of his retained counsel's abandonment, petitioner has been 'unsuccessfully' trying to appeal the Judgement of Conviction in this instant case.

In the Case of WILSON v. STATE; Md CtApp, 3/30/79, 25 CrL 2139, the Court held that:

> "Observing that the right to counsel "would be hollow indeed unless the assistance were required to be effective," the Maryland Court of Appeals points out that "(i)t follows that a criminal defendant has the right to the effective assistance of counsel on the direct appeal of the judgment entered upon his conviction of a 'serious' crime."
> (Emphasis added)

In this instant case, where petitioner was sentenced to a term of 'Life' imprisonment for the alledged offense of murder, there can be no question as to the 'seriousness' of the case. The State, knowing that petitioner wanted to appeal, used petitioner's ignorance of the law and retained counsel's abandonment to effectively foreclose and deny petitioner a direct appeal.

Petitioner would like to 'Supplement' the original pleading, now before the Bar of this Honorable Court, and state that at no time, has the State shown any documented proof that petitioner was represented by counsel at District Arraignment, or, that petitioner was informed, after notice of intent to appeal was given to the Court and motion for Casemade was entered into the record, that his retained counsel abandoned him without notice. The State is in effect, penalizing petitioner for the failure of petitioner's retained counsel to inform petitioner and the Court of his intention to withdraw as counsel of record. Thereby affording petitioner an opportunity to retain other counsel or inform the Court of his indigency and ask that counsel be duly appointed for the purpose of perfecting the desired appeal.

This Court has often stated that every citizen of these great United States is protected by the Constitution, and that the State's are foreclosed of depriving and denying to it's citizenry the due process and equal protection of the laws that our Fore-Fathers promulgated to rid the citizens of our Country of the stifling and often 'unjust' deprivations and denials of equality accorded the rich and affluent of other courtries and denied the poor.

WHEREFORE, premises considered and for good cause shown, petitioner pray that this Honorable Court will accept this writting as 'Suplemental' to the original pleading and, render it's decision in the best interest that 'Justice' be served.

It is so prayed.

Respectfully submitted,

/s/ Marvin E. Barnett

Marvin E. Barnett #72361
Stringtown Correctional Center
Post Office Box 128
Stringtown, Oklahoma 74569

PAUPER'S AFFIDAVIT

STATE OF OKLAHOMA)
)ss:
COUNTY OF ATOKA)

Marvin E. Barnett #72361, being first duly sworn under oath, deposes and states that: He is a poor person, without funds, property, friends or relatives who are willing or able to assist him in paying the costs and fees for the filing of the within instrument; it is prayed that this Honorable Court will grant petitioner leave to file and proceed in and as a poor person.

Respectfully Submitted,

/s/ Marvin E. Barnett
Signature of Petitioner Pro-Se

Subscribed and sworn to before me
this 16th day of MAY, 1980.
My Commission Expires: 12/12/81
/s/ DR Blackmon
Notary

STATEMENT OF PRISON ACCOUNT

The following information must be supplied before a petition can be filed forma pauperis, without cost to the petitioner.

The above inmate has in hand on deposit in his Inmate Trust Fund Account, personal funds in the amount of $13.00 XA, as of this date: 5/16/80.

/s/ DR Blackmon
Corrections Dept. Official